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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 1454.1603

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on October 13, 2009

Signature: /Aaron C. Walker/

Typed or printed name: Aaron C. Walker

Application Number	Filed
10/528,565	11/04/2005

First Named Inventor: Norbert KROTH

Art Unit	Examiner
2617	Marcos L. TORRES

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [x] attorney or agent of record. Registration number 59,921
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

/Aaron C. Walker/
Signature

Aaron C. Walker
Typed or printed name

202-434-1500
Telephone number

10/13/2009
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Docket No.: 1454.1603

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Norbert KROTH et al.

Serial No. 10/528,565 Group Art Unit: 2617

Confirmation No. 6384

Filed: March 21, 2005 Examiner: Marcos L. Torres

For: METHOD AND RADIO COMMUNICATION SYSTEM FOR THE TRANSMISSION OF USEFUL INFORMATION AS A SERVICE TO SEVERAL USER STATIONS

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the final Office Action mailed July 10, 2009, and having a period for response set to expire on October 13, 2009 (October 10-12, 2009 being a Saturday, Sunday, and Federal Holiday). Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal and the requisite fee.

If there are any additional fees associated with filing of this Request, please charge the same to our Deposit Account No. 19-3935.

REMARKS

Claims 14-16, 18-27, and 29 are pending and under consideration. Claims 14, 26, and 29 are the independent claims.

A pre-appeal brief panel review of the identified appealable issue I discussed below is requested.

I. The cited prior art, alone or in combination, does not teach all of the recited features of the claims

In the final Office Action mailed July 10, 2009, independent claims 14, 26, and 29 were rejected under 35 USC § 103(a) as being unpatentable over Maggenti (U.S. Patent No. 6,633,765) in view of Amada (U.S. Patent No. 5,559,804).

The Examiner acknowledges, at page 3 of the Office Action, that Maggenti does not disclose "including an information field that indicates whether or not a reply to requested notification should be sent." Therefore, it is submitted that Maggenti does not discuss or suggest

> sending a request notification to at least some of the subscriber stations, the request notification announcing that a transmission of the payload information is pending and including an information field that indicates whether or not a reply to the request notification should be sent by the subscriber stations before the payload information is transmitted to the subscribers stations,

as recited in claim 14. The Examiner attempts to make up for this deficiency with Amada. However, the applicants respectfully submit that Amada fails to make up for this deficiency because Amada does not discuss or suggest:

> sending a request notification to at least some of the subscriber stations, the request notification announcing that a transmission of the payload information is pending and including an information field that indicates whether or not a reply to the request notification should be sent by the subscriber stations before the payload information is transmitted to the subscribers stations,

as recited in claim 14.

The Examiner indicates that Fig. 3, together with the disclosure at col. 8, ll. 10-21, of Amada discloses the claim 14 limitation of sending a request notification including an information field that indicates whether or not a reply to the request notification should be sent by the subscriber stations before the payload information is transmitted to the subscriber stations. However, the Examiner does not make clear which part of the frame disclosed in Fig. 3 of

Amada corresponds to the claimed request notification. If it is assumed that the Examiner is referring to the request reply data that, according to Fig. 4 and col. 7, ll. 18-27 of Amada, is sent by the base station in response to access requirements received from wireless terminals, it is noted that the request reply data includes an address (SA, 402) indicative of the wireless terminal that is granted to subsequently make data transmission. The wireless terminal's address is provided by the wireless terminal in an access requirement (or sending requirement) sent in a randomly selected request slot, wherein the wireless terminal transmits such access requirement when it has data to be sent. The entire procedure is disclosed in col. 6, l. 62 to col. 7, l. 52 of Amada.

This procedure of Amada corresponds to a standard random access procedure that is well known in various radio communication systems. A wireless terminal, requiring the transmission of data to the network (or to another wireless terminal) sends an access message comprising an identifier (address) to identify itself in a randomly chosen time slot to the base station of the network. The base station, receiving this access message, in turn confirms reception of the message by sending a confirmation message to the wireless terminal, also comprising the received identifier of the wireless terminal so that the terminal knows that this confirmation message is directed to it. The wireless terminal furthermore knows from the reception of the confirmation message that it is allowed to transmit its pending data in a radio channel that is explicitly assigned in the confirmation message or implicitly derivable from the slot in which the request was sent to the base station.

However, such a confirmation message or request reply data as disclosed in Amada does not correspond to the claimed notification message announcing that a transmission of the payload information is pending and including an information field that indicates whether or not a reply to the request notification should be sent by the subscriber stations before the payload information is transmitted to the subscribers stations. In contrast to claim 14, for example, Amada discloses that the request reply data is sent by the base station in response to the wireless terminal's access requirement due to the wireless terminal's need to transmit data and not because of payload information pending to be transmitted to subscriber stations. Furthermore, the request reply data in Amada does not indicate whether or not a reply to the request should be sent. The wireless terminal in Amada does not reply to the request reply data, but starts transmitting data in the assigned resources. Such transmission of data pending in the wireless terminal cannot be considered as a reply to the base station's request reply. Amada also does not disclose a specific information field in the request reply data, but instead discloses

a code indicative of the direction of transmission of data, an address indicative of the wireless terminal and an error check code (see col. 7, ll. 24-27 of Amada).

Since the combination of Maggenti and Amada does not discuss or suggest all of the features of claim 14, claim 14 patentably distinguishes over Maggenti and Amada.

Independent claims 26 and 29 recite features similar to those discussed above. Since the combination of Maggenti and Amada does not discuss or suggest all of the features of claims 26 and 29, claims 26 and 29 patentably distinguish over Maggenti and Amada.

If there are any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 10-13-09

By: _____

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